

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 20, 2008. At the time of the Office Action, Claims 1-16 were pending in this Application. Claims 1-16 were rejected. Claim 6 has been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 101

Claims 1-16 were rejected by the Examiner under 35 U.S.C. §101, because the claimed invention is directed to non-statutory subject matter. Applicants amend Claim 6 to overcome these rejections and respectfully request full allowance of Claims 1-16 as amended.

Independent Claims 1 and 11 are arrangements comprising a measuring entity, an analysis entity, and a calculating unit. Independent Claim 6 recites a method. The Examiner refers to a Claim 25 and to a claimed process not resulting in a physical transformation or limited to a practical application. Office Action, page 1. Only Claims 1-16 are pending in this Application. Applicants therefore assume that the objection only refers to the method claims 6-10.

To overcome this objection, the Applicants have amended the method to specify that the distances are provided as input variables of systems for at least one of adjusting and monitoring properties of the wheeled vehicle. Basis for this amendment can be found in paragraph [0003] in the application as filed. Hereby the method includes a step that applies the measurements and calculated distances to produce a real world result, namely that of using them as input variables of systems for adjusting and/or monitoring properties of the wheeled vehicle. Additionally, it is noted that the measuring step and the providing step can not be interpreted as merely mental exercises, because they produce a real world result.

Rejections under 35 U.S.C. §103

Claims 1-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over EP Patent No. 1002709 issued to Jan Konried Schiffman et al. (“*Schiffman*”) in view of U.S. Patent No. 6,000,702 issued to Ralph Streiter (“*Streiter*”) and further view of U.S. Patent No. 6,502,023 issued to Yoshiki Fukada (“*Fukada*”).

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Schiffman* in view of *Streiter*, further in view of *Fukada* and further in view of U.S. Patent No. 5,670,872 issued to Gerjan F.A. Van De Walle (“*Walle*”).

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner considers that *Schiffmann* discloses all limitations of the independent claims, except that each of the movement positions is a measure for a distance between the vehicle body and at least one wheel of the chassis, and that each of *Streiter* and *Fukada*

teaches or suggests this difference. Applicants respectfully disagree, because *Schiffmann*, *Streiter* and *Fukada* are good examples of prior art methods and systems using a displacement sensor for each wheel as explained in paragraphs [0005] to [0006] of the filed application. The subject matter of the present independent claims renders the use of a displacement sensor for each wheel not necessary.

It is noted that *Schiffmann* discloses the use of wheel position sensor signals 36 and 38 for determining the wheel position measurements taken relative to the body of the vehicle. *Schiffmann*, column 5, lines 37-39. For the purpose given by the Examiner on page 4, last paragraph, namely the purpose of enhancing the accuracy, one skilled in the art would add wheel position sensor signals 36 and 38 as taught by *Schiffmann*. However, the present invention allows establishing the relative movement between the vehicle body and the chassis without height-level sensors. Application as filed, paragraph [0017].

Turning to *Streiter*, a path sensor 11 is assigned to each wheel for indicating the distance between the wheel 1 and the vehicle body 2. *Streiter*, column 3, lines 41-59 and column 6, lines 21-31. *Streiter* teaches and suggest that these path sensors are used to calculate ground clearance. *Streiter*, column 7, lines 38-42. For the purpose given by the Examiner on page 4, last paragraph, namely the purpose of enhancing the accuracy, one skilled in the art would add path sensors as taught by *Streiter*.

Turning to *Fukada*, a displacement sensor is assigned to each of three wheels for detecting displacement of the three wheels relative to the vehicle body. *Fukada*, column 1, lines 33-35. *Fukada* teaches and suggest that these displacement sensors are used to calculate ground clearance. *Fukada*, column 1, lines 38-43. For the purpose given by the Examiner on page 4, last paragraph, namely the purpose of enhancing the accuracy, one skilled in the art would add displacement sensors as taught by *Fukada*.

The present independent claims require that a distance between the vehicle body and at least one wheel of the chassis is determined based on three respectively perpendicular linear accelerations and at least two rotational speeds. In each independent claim a plurality of momentary movement positions using the at least two rotational speeds and the three linear accelerations are calculated, and each of the movement positions is a measure for the distance between the vehicle body and at least one wheel of the chassis. Contrary hereto, the cited art

discloses and teaches that a displacement sensor for each wheel is necessary to determine such a distance. In other words, the cited art discloses and teaches that relative movement between the vehicle body and the chassis can not be determined based on three respectively perpendicular linear accelerations and at least two rotational speeds without the use of displacement sensors for the wheels.

Since the cited art fails to teach or suggest how to calculate a distance between the vehicle body and at least one wheel of the chassis based on three respectively perpendicular linear accelerations and at least two rotational speeds, it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Information Disclosure Statement

Applicants would like to bring to the Examiner's attention that the Examiner made no indication that Reference "U" submitted with Information Disclosure Statement and PTO Form 1449 filed on August 7, 2006, had been considered in the Office Action mailed October 20, 2008. Applicants respectfully request confirmation of the consideration of Reference "U". Applicants attach a copy of the PTO Form 1449 that was attached to the Office Action mailed October 20, 2008 and respectfully request that the Examiner place his initials next to Reference "U" if citation is to be considered or draw a line through the citation if the citation is not to be considered.

CONCLUSION

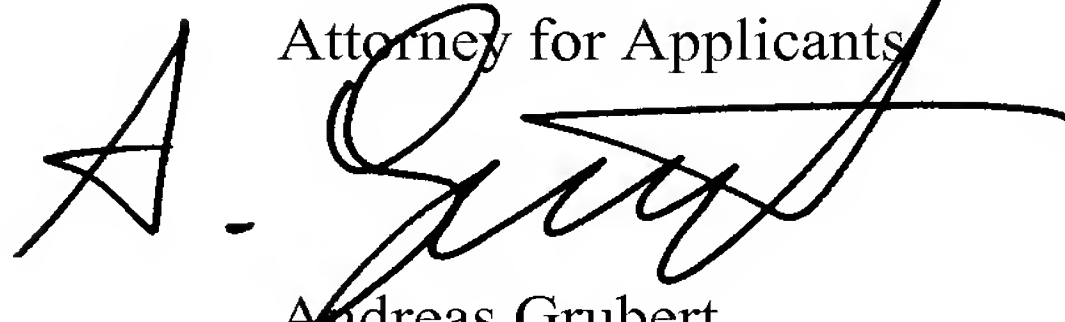
Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants respectfully submit a Petition for One-Month Extension of Time. The Commissioner is authorized to charge the fee of \$130.00 required to Deposit Account 50-2148 in order to effectuate this filing.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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Date: February 4, 2009

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